THE HON'BLE MS. JUTICE G. ROHINI

W.P.No. 5171 of 2004

This writ petition is filed seeking a declaration that the proceedings of the 3rd respondent dated 19-07-2003 as arbitrary and illegal.

The petitioner claims to be the hawker engaged in the retail kerosene sale under a licence issued under the A.P. Petroleum Products (L & RS) Order, 1980. The petitioner was served with a show cause notice dated 31-10-2003 calling upon him to explain as to the alleged irregularities on the basis of the report of the Inspector of Police, dated 23-01-2003. The petitioner submitted his explanation on 27-02-2003 denying the allegations made and also requesting to furnish a copy of the enquiry report dated 23-01-2003. However his request was not considered and his licence was cancelled by order dated 12-03-2003. Aggrieved by the same the petitioner filed an appeal before the 3rd respondent, Director of Civil Supplies. The said appeal was also dismissed by proceedings dated 19-07-2003. Hence this writ petition questioning the order of cancellation of licence passed by the 1st respondent as well as the order passed by the 3rd respondent dated 19-07-2003. Since the enquiry report which forms basis for the proceedings initiated against the petitioner was not furnished, the entire action, according to the petitioner, is arbitrary and illegal. In support of his contention the petitioner relied upon a decision of this Court in W.P.No. 22599 of 2003 dated 26-11-2004 wherein, under identical circumstances this Court held that the action of the respondents in canceling the licence of the petitioner therein was illegal and accordingly set aside the order of cancellation and directed the licensing authority to conduct de novo enquiry.

Having regard to the facts of the case and in the light of the ratio laid down in the decision referred to supra, I am of the view that the

impugned orders cannot be sustained since admittedly a copy of the enquiry report, on the basis of which the show cause notice was issued, which ultimately culminated in the order of cancellation, was not furnished to the petitioner.

Accordingly, the impugned orders are set aside and the 1st respondent is directed to conduct *de novo* enquiry into the allegations against the petitioner after furnishing a copy of the enquiry report and any other material on the basis of which the proceedings were initiated and after affording a reasonable opportunity to the petitioner to rebut the contents of such adverse material. It is made clear that the enquiry shall be completed and appropriate orders shall be passed in accordance with law as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order. Since the order of cancellation as well as the order of the appellate authority are set aside, the respondents are directed to restore the licence of the petitioner. However such restoration of licence shall be subject to the further orders that may be passed by the 1st respondent.

Accordingly the writ petition is disposed of. No costs.

13th September, 2005

BJ/